

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1470 OF 1998

M/s.Arpan Leasing Co. Ltd,)
a Company incorporated under the)
provisions of Companies Act,1956)
having its registered office at)
58, Bombay Mutual Chambers,)
5th Floor, 19/21, Ambalal Doshi)
Marg, (Hamam Street), Fort,)
Bombay 400 023.) ...Plaintiffs

Versus

Mr Suresh Mehta,)
Adult, Bombay, Indian inhabitant)
Residing at B/5, Muni Suvrat,)
Kama Lane, Ghatkopar (W),)
Bombay 400 086.) ...Defendant

Ms Rashmi Vaithu i/by S. Ashwinkumar and Company for
the Plaintiffs.

CORAM : ABHAY S.OKA, J.
DATED : JULY 25, 2007.

ORAL JUDGMENT:

1. The suit is kept under the caption of "Undefended Suits for Exparte Decree". The learned counsel for the Plaintiffs has tendered on record affidavit of evidence of Mr. Sunil H. Kedari, the Manager of the Plaintiffs. The said affidavit is marked "X" for identification and is taken on record. Alongwith the affidavit, the original documents on which reliance is placed by the Plaintiffs are tendered on record alongwith a list. The said list alongwith the

original documents is taken on record and marked "Y" (collectively) for identification.

2. According to the case of the Plaintiffs, the Defendant purchased in auction an immovable property known as "Kamal Kunj", 81-B, Bomenji Petit Road, Bombay for consideration of Rs.72 lakhs. As the Defendant was short of funds, he approached the Plaintiffs for a loan of Rs.20 lakhs. According to the case of the Plaintiffs loan amount of Rs.20 lakhs was paid by the Plaintiffs to the Defendant by four different cheques. According to the Plaintiffs, it was agreed that the Defendant was to repay the said amount on or before 31st March, 1996. Reliance is placed on letters dated 15th April, 1996 and 13th June, 1996 sent by the Plaintiffs to the Defendant calling upon the Plaintiffs to repay the amount with interest at the rate of 18 per cent per annum.

3. In the affidavit of evidence, all the particulars of four cheques in the sum of Rs.5 lakhs, 5 lakhs, 2 lakhs and 8 lakhs have been set out by which an aggregate sum of Rs.28 lakhs was given to the Defendants. Office copies of the letters dated 15th April, 1996 and 13th June, 1996 alongwith postal acknowledgments have been produced on record. An extract of the account of the Defendant maintained by

the Plaintiff is placed on record. In view of the affidavit and the documents, the case of the Plaintiffs regarding grant of loan of Rs.20 lakhs for the Defendant has been established.

4. The Plaintiffs have claimed further interest at the rate of Rs.18 per cent per annum by contending that the defendant had agreed to repay the said amount together with interest at the rate of 18 per cent per annum. In view of the fact that agreement between parties is pleaded as regards rate of interest, the claim of interest deserves to be allowed. Hence, suit is decreed in terms of prayer clause (a). The Defendant shall pay the costs of the suit to the Plaintiff.

5. The Plaintiff will be entitled to refund of court fees, if any, in accordance with rules.

6. Certified copy is expedited.

JUDGE